



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/2299

Re: Property at 4 Knowe Road, Chryston, Glasgow, G69 9BQ (“the Property”)

Parties:

Mr Steven Taylor, Mrs Donna Taylor, 3 Barcaldine Avenue, Chryston, Glasgow, G69 9NT (“the Applicants”)

Mr Marc Sutherland, 4 Knowe Road, Chryston, Glasgow, G69 9BQ (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This was an application for a payment order dated 11th July 2022 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants originally sought in their application payment of arrears in rental payments of £5,935.00 in relation to the Property from the Respondent, and provided with their application copies of the private residential tenancy agreement and rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and

the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 31st August 2022, and the Tribunal was provided with the execution of service.

Shortly prior to the Case Management Discussion, the Applicants provided an updated rent arrears statement disclosing arrears to 29th September 2022 of £7,420.00.

Case Management Discussion

A Case Management Discussion was held at 10:00 on 26th October 2022 by Tele-Conference. The Applicants did not participate, but were represented by Ms Cooke, letting agent. The Respondent did not participate, nor was he represented. The Respondent had responded to this application by e-mail to the Tribunal of 18th October 2022. In that e-mail, the terms of which were somewhat self-contradictory, he appeared to accept the arrears of rent, indicated that he was seeking further advice, and explained that he had some mental health issues which he provided no further details about nor any evidence in relation thereto.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

Ms Cooke referred to the updated rent arrears statement, and confirmed that the current rent arrears as at today's date were £7,915.00. She requested to amend the sum claimed in the application to that figure in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, and sought the Tribunal's permission to shorten the 14 day period for intimation of the amendment upon the Respondent in advance of today's Case Management Discussion in terms of Rule 16A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal considered in all the circumstances that it would consent to the amendment, and shortened the 14 day period of intimation on the Respondent to nil in circumstances where the updated rent arrears statement of 12th October 2022 had been intimated to him 14 days in advance of the Case Management Discussion.

The Tribunal was then invited by Ms Cooke with reference to the application and papers to grant an order for payment of the sum of £7,915.00. She explained that the Respondent had ceased making payment of the rent due and thereafter failed to respond to any communications sent to him.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

“First-tier Tribunal's jurisdiction

- (1) In relation to civil proceedings arising from a private residential tenancy—
- (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
- (a) the prosecution of a criminal offence,
 - (b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the rent arrears information provided, and the submissions made by Ms Cooke, and was satisfied that these disclosed an outstanding balance of rent arrears due of £7,915.00. Rent of £495.00 per month was due in terms of clause 8 of the tenancy agreement. Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal made an order for payment by the Respondent to the Applicants of the sum of £7,915.00.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

N. Kinnear

26/10/2022

Legal Member/Chair

Date

